

### **REMARKS/ARGUMENTS**

In view of the changes made to the drawings, and in view of the following remarks, reconsideration of the application is respectfully requested.

Initially, the Applicant wishes to thank the Examiner for reconsidering the restriction requirement based on the arguments presented in the prior response filed on July 23, 2004.

The Examiner has objected to the drawings based on reference characters 195 and 185. As presented in the specification on page 14, line 12, the fin elements should have been labeled 185 and 186 in Figure 4. To this end, enclosed herewith is a replacement drawing sheet with Figure 4 being appropriately amended. Based on this change to Figure 4, withdrawal of this objection is respectfully requested. Certainly, this change to Figure 4 does not add any new matter to the application.

All the claims in this application have been rejected based on prior art. Currently, the application includes independent claims 1, 2, 17 and 26. Of these claims, claim 26 represents the only method claim in the application. Independent claims 2 and 17 represent subcombination claims, while claim 1 represents a combination claim including all the particulars of both claims 2 and 17. Claims 17-21, 24 and 26 have been rejected as being unpatentable over Davis et al. (U.S. Patent No. 6,739,146) in view of Cheng (U.S. Patent No. 6,457,955). Claims 1-16, 22, 23 and 25 stand rejected based on this combination and further in view of Newman (U.S. Patent No. 5,256,159). For the reasons which will be presented further below, it is respectfully submitted that the rejection set forth by the Examiner is improper and, additionally, none of the prior art taken either singly or in combination discloses or suggests the present invention.

With respect to the Davis et al. patent relied upon as the main reference in each of the rejections set forth by the Examiner under § 103, it should be realized that this patent constitutes a reference under § 102(e) as it is assigned to the same assignee as the present

application. Given that this reference is utilized in a § 103 rejection, it is respectfully submitted that this reference does not constitute prior art to the present invention. To this end, the Examiner's attention is drawn to M.P.E.P. § 706.02(k). Due to the disqualification of this prior art, it is respectfully submitted that all the rejections set forth in this application should be readily withdrawn.

With respect to the secondary references relied upon by the Examiner, it should be initially noted that Cheng is directed to a heat dissipation fan wherein a base plate which is mounted in a fashion so as to draw heat from an object which generates heat. The fan is used to develop a flow of cooling air which actually draws the heat away from the base. For this purpose, the base has various heat dissipation pieces such as those indicated at 61 in the embodiment shown in Figure 7. The entire fan arrangement is provided to cool these dissipation pieces. This type of arrangement is quite common in connection with other fields, such as computers. However, such a heat dissipation fan arrangement is not relevant in connection with a stirring fan in a refrigerator, as a refrigerator stirring fan does not have any type of base plate which gets heated or which needs to dissipate heat. Instead, the function of the stirring fan arrangement is to recirculate air within the refrigeration compartment in order to enhance the uniform temperature in the overall compartment. It is respectfully submitted that the picking and choosing of features from the Cheng reference for use in combination with any type of refrigeration device merely constitutes hindsight. Instead, it would only be proper for the Examiner to utilize Cheng for what it teaches, i.e., to employ a heat dissipation fan in environments in which it is desired to employ heat dissipation.

A generally similar argument is submitted with respect to the Newman patent which is directed to a personal deodorizer. Although it is true that the Newman arrangement employs a deodorizing assembly that can include a charcoal filter, there is no suggestion in Newman to utilize this arrangement in connection with a refrigerator. In fact, the patent only discloses the invention for use in environments where odors from bodily waste are developed, such as ostomy appliances and diapers worn on or near a human body. In addition to this major distinction, it should be realized that Newman

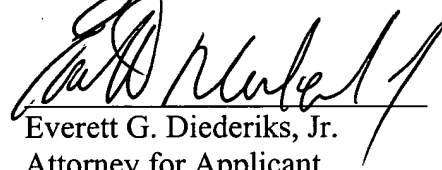
teaches to draw in odorous air at side openings 8 or 108 and to direct the air through a fan and out disposable deodorizing assembly 6 or 106. This is quite different from the present invention as claim which is concerned with a circulating fan in a refrigerator which draws in air at a central portion and disperses the air about a peripheral portion as set forth in independent claims 1, 2 and 17 of the present application. Therefore, it is respectfully submitted that if the Examiner is going to employ the Newman reference to a personal deodorizing apparatus for bodily waste that the arrangement be utilized for what it teaches, instead of simply picking the filter to be employed in the combination.

In addition to these basic distinctions between the present invention and the applied prior art, it is respectfully submitted that many of the dependent claims set forth more particular aspects not disclosed or suggested in the prior art. For instance, the particular manner in which the base member is connected to the main housing, the use of the mounting elements to secure the housing within the fresh food compartment, the overall shroud arrangement, the manner in which the fan cover is removably attached for replacement of the filter pad, the actual structure of the stirring fan including a base plate, an annular side wall and particular vane positioning, and the overall structure of the housing and the manner in which it interacts with the cover. These features are specifically covered by dependent claims 2-16. Dependent claims 18-25 set forth particular structure concerning sensors, operational modes and the like which are seen to further distinguish the present invention. Certainly, the particular limitations of method claim 26 requires various structural features of the present invention in combination with a particular manner of use of the stirring fan assembly having the filter pad. It is simply submitted that these features are not disclosed or suggested in any of the known prior art.

In view of the above remarks and the amendments to the drawings, reconsideration of the application is respectfully requested. More specifically, it is respectfully requested that the claims be allowed and the application pass to issue. If the Examiner should have any additional concerns regarding the allowance of this

application, he is cordially invited to contact the undersigned at the number provided below to further expedite the prosecution.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Everett G. Diederiks, Jr.", written over a horizontal line.

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**Amendments to the Drawings:**

Kindly insert the replacement drawing sheet presented herewith for the original drawing sheet filed in this application.